

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
14 DHC 23

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

CHARLES M. FEAGAN, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Charles M. Feagan ("Feagan" or "Defendant"), was admitted to the North Carolina State Bar on August 23, 1997, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Feagan was engaged in the practice of law in the State of North Carolina and practiced in Columbus, Polk County, North Carolina.

FIRST CLAIM FOR RELIEF

4. On or about October 20, 2010, Feagan obtained and possessed a business check (check number 2138, Asheville Savings Bank account) stolen from Alex V. and Heather Williams, doing business as RPM Retail Finance, of Asheville, North Carolina.

5. On or about the same date referenced in Paragraph 4 above, Feagan forged and uttered check number 2138 by cashing the check in the amount of \$486.53 at the Sav-Mor grocery store, Plaza Loop shopping center, in Canton, North Carolina.

6. The check referenced in Paragraphs 4 and 5 above was made payable to "Charles Mark Feagan" and was endorsed by Feagan, but Feagan was not an authorized payee.

7. On January 20, 2011, Haywood County law enforcement authorities charged Feagan in connection with the forgery and uttering of the check referenced in Paragraphs 4 and 5 with one count of felonious common law forgery in violation of N.C. Gen. Stat. § 14-119(A); one count of felonious common law uttering in violation of N.C. Gen. Stat. § 14-120; and, one count of misdemeanor possession of stolen property in violation of N.C. Gen. Stat. § 14-71.1.

8. After being initially indicted on the two felony charges on April 13, 2011, superseding indictments were returned by a Haywood County Grand Jury in *State v. Charles Mark Feagan*, No. 13-CRS-000048 (Haywood County Superior Court) charging Feagan with forgery in violation of N.C. Gen. Stat. § 14-119(A), and in *State v. Charles Mark Feagan*, No. 13-CRS-000049 (Haywood County Superior Court) with uttering in violation of N.C. Gen. Stat. § 14-120.

9. On December 13, 2013, a jury convicted Feagan in Haywood County Superior Court of two felonies (forgery of check in case no. 13-CRS-000048 and uttering the forged check in case no. 13-CRS-000049) and one misdemeanor (possession of stolen goods—the stolen checks in case no. 11-CRS-050197).

10. Feagan received two consecutive six-to-eight month sentences for the felony convictions referenced in Paragraph 9 above, suspended for 36 months on specified conditions of probation.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(1) in that Defendant was convicted of criminal offenses showing professional unfitness, and pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- a) By his commission of the felonious forgery and uttering of the check, Defendant committed criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

SECOND CLAIM FOR RELIEF

11. On September 4, 2010, Dr. Samuel E. Britt ("Dr. Britt") received a speeding ticket (citation no. 10IF701202) while travelling through Polk County.

12. Dr. Britt contacted Feagan about handling the speeding ticket referenced in Paragraph 11 above.

13. On September 21, 2010, Feagan informed Dr. Britt by letter that his fee for handling the ticket would be \$300, and that the fines and costs for the ticket would be \$171.

14. In the letter referenced in Paragraph 13 above, Feagan requested that Dr. Britt return an enclosed waiver of appearance form and the sum of \$471 to him.

15. Dr. Britt sent Feagan the waiver of appearance form and the sum of \$471 by personal check on September 24, 2010.

16. On or about October 1, 2010, Feagan received and cashed Dr. Britt's check referenced in Paragraph 15 above.

17. Feagan did not deposit into his trust account and did not identify or maintain the \$171 in court costs and fines as entrusted funds from Dr. Britt.

18. On December 15, 2010, Feagan appeared in court on behalf of Dr. Britt and entered a guilty plea to a reduced charge in connection with the speeding ticket citation referenced in Paragraph 11 above.

19. Feagan did not pay the \$171 in court costs and fines to resolve Dr. Britt's speeding ticket citation and guilty plea referenced in Paragraphs 11 and 18 above.

20. Dr. Britt subsequently received a notice of the revocation of his driver's license as a result of Feagan's failure to pay the court costs and fines referenced in Paragraph 19 above.

21. Feagan failed to identify, hold, and maintain Dr. Britt's \$171 in entrusted property separate from his own funds.

22. Feagan failed to timely disburse to the court Dr. Britt's \$171 in entrusted funds for the court costs and fines in connection with the speeding ticket citation and guilty plea referenced in Paragraphs 11 and 18 above.

23. Feagan converted the \$171 of Dr. Britt's entrusted fiduciary funds to his own use and benefit.

24. Dr. Britt subsequently filed a fee dispute petition with the State Bar's Attorney Client Assistance Program, which was served upon Feagan by personal service on June 5, 2011.

25. Feagan failed to respond to the fee dispute petition referenced in Paragraph 24 above.

26. On or about April 11, 2011, Feagan was served with a Letter of Notice in grievance file no. 11G0365 concerning his handling of Dr. Britt's speeding ticket citation referenced in Paragraph 11 above.

27. In his response to the Letter of Notice referenced in Paragraph 26 above, Feagan stated that he had issued a refund and a letter of apology to Dr. Britt.

28. Feagan's representations in his response referenced in Paragraph 27 above, that he had issued a refund and a letter of apology to Dr. Britt, were false.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- a) By failing to identify, hold, and maintain Dr. Britt's entrusted funds separate from his own funds, by failing to deposit Dr. Britt's entrusted funds into a fiduciary account or his trust account, and by failing to disburse or pay Dr. Britt's court costs and fines with the funds Dr. Britt had entrusted to him for that purpose, Defendant failed to act with reasonable diligence and promptness in representing Dr. Britt in violation of Rule 1.3, Defendant failed to promptly identify, hold and maintain Dr. Britt's entrusted funds separate from his own in violation of Rule 1.15-2(a), Defendant failed to deposit Dr. Britt's entrusted funds into a fiduciary account or Defendant's trust account in violation of Rule 1.15-2(c), and Defendant failed to promptly pay to the court Dr. Britt's entrusted funds for the court costs and fines in violation of Rule 1.15-2(m);
- b) By converting Dr. Britt's entrusted funds to his own benefit, Defendant used entrusted funds for his personal benefit in violation of Rule 1.15-2(j), Defendant committed criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b), and Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);
- c) By failing to respond to Dr. Britt's fee dispute petition, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2); and,
- d) By falsely stating in his response to the State Bar's Letter of Notice in grievance file no. 11G0365 that he had issued a refund and letter of apology to Dr. Britt, Defendant knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a), and Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

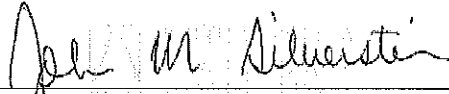
WHEREFORE, Plaintiff prays that:

(1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;

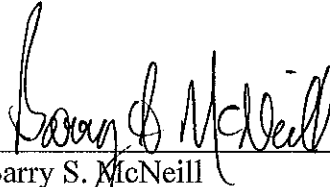
(2) Defendant be taxed with the fees and costs permitted by law in connection with this proceeding; and

(3) For such other and further relief as is appropriate.

The 9th day of July, 2014.



John M. Silverstein, Chair
Grievance Committee



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